



16 JUN 2009

THE NATH LAW GROUP
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In re Application of RATNAM et al
U.S. Application No.: 10/593,158
PCT Application No.: PCT/IN2004/000142
Int. Filing Date: 20 May 2004
Priority Date Claimed: 19 March 2004
Attorney Docket No.: 27678U
For: AN IMPROVED PROCESS FOR
PRODUCING CHLORINATED SUCROSE

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DECISION

This is in response to applicant's petition under 37 CFR 1.181 to withdraw a holding of abandonment filed 17 April 2009.

BACKGROUND

On 20 May 2004, applicant filed international application PCT/IN2004/000142, which claimed priority of an earlier India application filed 19 March 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 29 September 2005. The thirty-month period for paying the basic national fee in the United States expired on 19 September 2006.

On 18 September 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 June 2008, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 27 June 2008, the DO/EO/US mailed a Notice of Insufficient Fees (Form PCT/DO/EO/923), which indicated that additional claims fees were due.

On 07 August 2008, applicant filed a response to the Notice of Insufficient Fees.

On 20 March 2009, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned for failure to timely file a proper response to the Notice of Insufficient Fees.

On 17 April 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The instant petition requests that the holding of abandonment be withdrawn. A review of the application file reveals that the papers filed 18 September 2006 did not include a proper amendment to the claims in compliance with 37 CFR 1.121(a) and (c). Due to the amendment under PCT Article 34, the application included 97 total claims, including 3 independent claims and at least one multiple independent claim.¹ Thus, at the time the Notification of Insufficient Fees was mailed, the application was subject to the claims fees set forth in 37 CFR 1.492(e) and (f). The application papers filed on 18 September 2006 included an authorization to charge any required fees. Therefore, the Notification of Insufficient Fees and the subsequent Notification of Abandonment were issued in error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notice of Insufficient Fees (Form PCT/DO/EO/923) mailed 27 June 2008 is hereby VACATED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 20 March 2009 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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¹ The number of claims has since been reduced by a preliminary amendment filed 11 June 2009.